

Notice of Allowability

Application No.

09/838,549

Examiner

George R. Koch III

Applicant(s)

RANDALL ET AL.

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/22/2006.
2. ☒ The allowed claim(s) is/are 9 and 10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

George R. Koch III
Primary Examiner
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DETAILED ACTION

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Cross-Reference to other Application section, after "60/198,295", delete "4/19/00".

Response to Arguments

1. Applicant's arguments, see remarks filed 2/22/2006 with respect to claims 9 (identical to claim 9 before, written in independent form) and 10 have been fully considered and are persuasive. The rejection based on Ishida and McNeely has been withdrawn and prosecution has been reopened.

Allowable Subject Matter

2. Claims 9-10 are allowed.

3. The following is an examiner's statement of reasons for allowance:

Applicant has persuasively argued that there is no motivation to add the brush in McNeely (a bowling lane conditioning machine) to the syringe paste dispenser of Ishida (see section 1, pages 5-6 of the remarks filed 2/22/2006).

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Applicant's arguments that Ishida and McNeely are generally operationally very different are persuasive. (For example, Applicant points out that Ishida involves a 2 axis motion machine for moving the substrate, and McNeely moves their machine in one direction over a stationary bowling lane). Applicant's argument that the two inventions are used for different purposes is also persuasive.¹

Therefore, the prior art of record does not suggest the addition of a painting implement attached to said motional control system.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Drawings

4. The drawings submitted on 4/18/2001 have been approved by the examiner.

Election/Restrictions

¹ Applicant also backs up the above argument from section 1 by arguing, in section 2 of the remarks filed 2/22/2006, that McNeely can not function as a painting implement used to redistribute paint. The examiner feels that McNeely's brushes could redistribute paint, and that spreading a material over the entire surface reads on redistribution. Furthermore, applicant's interpretation of painting to merely cover actual art paints is reading elements from the specification into the claims. For example, painting could also be painting the canvas in one flat cover, similar to the techniques involved in painting a wall. Such a technique would suggest redistribution over the entire surfaces. However, since there is no motivation in references or available in the art to combine the references of Ishida and McNeely, this argument is not a dispositive factor in the patentability of claim 9. The arguments in section 1 are sufficient to overcome the rejection.

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5. This application is in condition for allowance except for the presence of claims 13-18 directed to claims non-elected without traverse. Accordingly, claims 13-18 been cancelled.

6. A telephone conversation with Patrick Holmes on 3/10/2006 confirmed that while the election on 4/11/2005 stated that the election was with traverse, no arguments were presented as to the traversal. Therefore, the election has properly been treated as without traverse.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (571) 272-1230. The examiner can normally be reached on M-F 9-5.

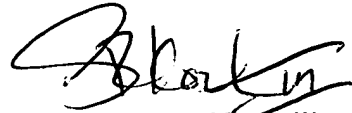
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read "George R. Koch III", written in a cursive style.

George R. Koch III
Primary Examiner
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GRK
3/10/2006